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**TITLE 65 STATE LOTTERY COMMISSION**

**Emergency Rule**  
LSA Document #07-474(E)

**DIGEST**

Adds [65 IAC 2.5](#) concerning disposal of property by the State Lottery Commission. Effective July 26, 2007.

**[65 IAC 2.5](#)**

SECTION 1. [65 IAC 2.5](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 2.5. DISPOSAL OF PROPERTY**

**Rule 1. General Provisions**

**[65 IAC 2.5-1-1](#) Applicability**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#); [IC 6-2.5-2](#)

**Sec. 1. The provisions of this article shall apply to all property owned by the commission.**

*(State Lottery Commission; [65 IAC 2.5-1-1](#); emergency rule filed Jul 26, 2007, 11:04 a.m.:  
[20070808-IR-065070474ERA](#))*

**[65 IAC 2.5-1-2](#) "Property" defined**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#); [IC 35-41-1-23](#)

**Sec. 2. "Property" has the meaning as set forth in [IC 35-41-1-23](#).**

*(State Lottery Commission; [65 IAC 2.5-1-2](#); emergency rule filed Jul 26, 2007, 11:04 a.m.:  
[20070808-IR-065070474ERA](#))*

**[65 IAC 2.5-1-3](#) "Worthless property" defined**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#); [IC 35-41-1-23](#)

**Sec. 3. Property is considered to be worthless or of no market value if the value of the property is less than the estimated costs of the sale and transportation of the property.**

*(State Lottery Commission; [65 IAC 2.5-1-3](#); emergency rule filed Jul 26, 2007, 11:04 a.m.:  
[20070808-IR-065070474ERA](#))*

**[65 IAC 2.5-1-4](#) Methods of disposal**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#); [IC 6-2.5-2](#); [IC 20-18-2-12](#); [IC 36-1-2-17](#)

**Sec. 4. (a) One (1) or more of the following methods may be used either singularly, or in combination, for the disposal of property owned by the commission:**

- (1) Competitive sealed bid.
- (2) Public sale or auction.
- (3) Internet sale or auction.
- (4) Allowance made on another purchase.
- (5) Surplus property may be donated to an educational entity or a school corporation (as defined by [IC 36-1-2-17](#)), a nonpublic schools *[sic]* (as defined in [IC 20-18-2-12](#)), or any nonprofit organization that qualifies as a tax exempt organization under guidelines established by the Internal Revenue Service.
- (6) Worthless property with no intrinsic value or worth shall be thrown away.

(b) Regardless of the selected method of disposal, detailed listings of property to be disposed shall be maintained within the files of the commission.

(c) The proceeds derived from any of the selected methods of disposal shall be directly deposited in the administrative trust fund administered by the commission.

(d) Disposal of commission property shall be in accordance with [65 IAC 2.5-2](#).

(e) The disposal of property owned by the commission may be subject to the applicable state gross retail tax as outlined in [IC 6-2.5-2](#).

*(State Lottery Commission; [65 IAC 2.5-1-4](#); emergency rule filed Jul 26, 2007, 11:04 a.m.: [20070808-IR-065070474ERA](#))*

## Rule 2. Disposal of Property

### [65 IAC 2.5-2-1](#) Disposal of property by means of competitive sealed bids

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#)

Sec. 1. (a) The director, or the director's authorized designee, may direct that surplus property be disposed of by means of competitive sealed bids.

(b) When property owned by the commission is to be disposed utilizing this method, the following procedures will apply:

- (1) A notice of proposed sale must be prepared and published in at least one (1) newspaper of general circulation within Marion County, Indiana. The director, or the director's authorized designee, may direct publication of the notice of proposed sale in additional newspapers as determined appropriate.
- (2) The notice of proposed sale will be published at least thirty (30) days prior to the date of the proposed sale. The notice of proposed sale must include the following:
  - (A) Date and time deadlines for the receipt of sealed competitive bids.
  - (B) Location of the property to be disposed for inspection by potential bidders.
  - (C) Itemized list of property to be disposed.
  - (D) Terms of the sale.
  - (E) Date and time of bid opening.
- (3) Award of property shall be made to the highest competitive bidder. Settlement and payment for property disposed of shall be as specified in the terms of the sale, unless otherwise approved by the director or the director's authorized designee.
- (4) Settlements of disputes concerning the property to be disposed will be determined by the director, or the director's authorized designee, and shall be final and conclusive.
- (5) The amount of the gross and net revenues received under this method shall be recorded in the appropriate records of the commission.

*(State Lottery Commission; [65 IAC 2.5-2-1](#); emergency rule filed Jul 26, 2007, 11:04 a.m.: [20070808-IR-065070474ERA](#))*

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**65 IAC 2.5-2-2** Disposal of property by means of public sale or auction

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#)

Sec. 2. (a) The director, or the director's authorized designee, may direct that surplus property be disposed of by means of a public sale or auction.

(b) When property owned by the commission is to be disposed utilizing this method, the following procedures will apply:

- (1) A notice of proposed sale must be prepared and published in at least one (1) newspaper of general circulation within Marion County, Indiana. The director, or the director's authorized designee, may direct publication of the itemized list in additional newspapers as determined appropriate.
- (2) The notice of proposed sale will be published at least thirty (30) days prior to the date of the proposed sale. The notice of proposed sale must include the following:
  - (A) Date and time of the proposed sale.
  - (B) Location of the property to be disposed for inspection by the public.
  - (C) Location of the proposed sale, if different from the location for public inspection.
  - (D) Itemized list of property to be disposed.
  - (E) Terms of the sale.
  - (F) Name of auctioneer, as appropriate.
- (3) Award of property shall be made to the highest bidder. Settlement and payment for property disposed of shall be as specified in the terms of the sale, unless otherwise approved by the director or the director's authorized designee.
- (4) Settlements of disputes concerning the property to be disposed will be determined by the director, or the director's authorized designee, and shall be final and conclusive.
- (5) The amount of the gross and net revenues received under this method shall be recorded in the appropriate records of the commission.
- (6) Nothing in this section shall be construed to prevent the designated auctioneer from advertising the sale independently as a normal and regular course of doing business.

(State Lottery Commission; [65 IAC 2.5-2-2](#); emergency rule filed Jul 26, 2007, 11:04 a.m.:  
[20070808-IR-065070474ERA](#))

**65 IAC 2.5-2-3** Disposal of property by means of Internet sale or auction

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#)

Sec. 3. (a) The director, or the director's authorized designee, may direct that surplus property be disposed of using an Internet sale or auction.

(b) When property owned by the commission is to be disposed utilizing this method, the following procedures will apply:

- (1) A detailed listing of property that will be sold by means of Internet sale or auction will be compiled and maintained in the appropriate records of the commission.
- (2) A detailed description of the surplus property to be sold will be included in the sale posting on the Internet auction site.
- (3) Any costs associated with conducting the auction on the Internet site may be paid as required by the entity maintaining the Internet site.
- (4) The amount of the gross and net revenues received under this method shall be recorded in the appropriate records of the commission.

(State Lottery Commission; [65 IAC 2.5-2-3](#); emergency rule filed Jul 26, 2007, 11:04 a.m.:  
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**65 IAC 2.5-2-4** Disposal of property by means of allowance made on another purchase

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 4-30-3](#)

**Sec. 4. (a)** The director, or the director's authorized designee, may direct that surplus property be disposed of using an allowance made on another purchase.

**(b)** When property owned by the commission is to be disposed utilizing this method, the following matters will be recorded in the appropriate records of the commission:

- (1) A detailed listing of property disposed of for which allowance will be made on another purchase.
- (2) A detailed listing of the purchased property for which the allowance is being made.
- (3) The name of the entity or person with which this transaction is being conducted.
- (4) The dollar value of both the allowance and the purchase shall be recorded in the appropriate records of the commission.

*(State Lottery Commission; [65 IAC 2.5-2-4](#); emergency rule filed Jul 26, 2007, 11:04 a.m.: [20070808-IR-065070474ERA](#))*

#### **[65 IAC 2.5-2-5](#) Records and disclosure**

Authority: [IC 4-30-3-7](#); [IC 4-30-3-9](#); [IC 4-30-3-11](#)

Affected: [IC 5-14-3](#); [IC 15-1.5-2](#)

**Sec. 5.** Upon completion of all actions utilizing any of the methods outlined in this rule, all transactions, files, records, and associated information are considered public records in accordance with [IC 5-14-3](#).

*(State Lottery Commission; [65 IAC 2.5-2-5](#); emergency rule filed Jul 26, 2007, 11:04 a.m.: [20070808-IR-065070474ERA](#))*

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